



WWJMRD 2018; 4(2): 272-276

www.wwjmr.com

International Journal

Peer Reviewed Journal

Refereed Journal

Indexed Journal

UGC Approved Journal

Impact Factor MJIF: 4.25

E-ISSN: 2454-6615

Alka Dahiya

Scholar, Department of Law,
Maharshi Dayanand
University, Rohtak,
Haryana –India

Global Framework for Child Rights

Alka Dahiya

Abstract

Human rights apply to all age groups of human beings. A child has the same general human rights as adults. But children are particularly vulnerable and so they also have particular rights that recognize their special need for protection. Lots of Human rights treaties refer to Child Protection and Child Rights and are of their provisions apply to children. However, it was felt that children needed a separate convention and a clear definition of children's legal rights under international law.

Key-words: UN Convention on the rights of the child; set of basic rights; committee on the rights of the child; world summit for children.

1. Introduction

The protection from all exploitation and opportunities to grow physically, mentally, morally and spiritually is their birth right. Childhood is universal transcend all nationalities and know no artificial boundaries.¹ Nature has provided some inherent rights to every human being including children. These fundamental rights or bestowed in human being from the very inception. Human being is endowed with rights since the stage of foetus. Foetus in the mother womb is the starting point since then human being is guaranteed certain basic rights. These rights are intrinsic in every one.² They are inherent to the human person, inalienable and universal.³ The concept of human rights is based on the dignity and worth of the individual, the unit of creation without reference to man-made artificial divisions based on colour, race, sex, religion etc. Human rights are essential for the realization of true potential of every human being.⁴ Human rights apply to all age groups of human beings. A child has the same general human rights as adults. But children are particularly vulnerable and so they also have particular rights that recognize their special need for protection.⁵ Lots of Human rights treaties refer to Child Protection and Child Rights and are of their provisions apply to children. However, it was felt that children needed a separate convention and a clear definition of children's legal rights under international law.⁶ The rights of child are such a broad topic that neither time nor space will permit to do full justice to the topic. This chapter, therefore, shall limit itself to examining briefly how child rights have evolved over the years within the international community, and how all developments related to child issues were codified in a comprehensive universal document - the CRC, and it is to be

Correspondence:

Alka Dahiya

Scholar, Department of Law,
Maharshi Dayanand
University, Rohtak,
Haryana, India

¹ See preface to Vijay Rattan, Integrated Child Development Services Program Administration, Vol. II, (1997) S. Chand & Company Ltd., New Delhi

² N.S Sreenivasalu, "Human rights : Many Sides to a Coin", (2008) P. 45

³ <http://www.unicef.org/crc/index-framework.html> accessed on 21st December 2008

⁴ J.S Verma, "The New Universe of Human rights", (2004) P. 18

⁵ Available at www.scribed.com assessed on 21st May, 2015.

⁶ <http://www.childlineindia.org.in/cr-internationallevel.htm>. Accessed on 22nd December 2016.

implemented to national, regional and global levels thereby providing the protection to the rights of child.

2. UN Conventions on the Rights of the Child

The UN Convention on the Right of the Child was adopted by the General Assembly by consensus, on the 30th Anniversary of the Declaration on November 20, 1989⁷ which came into force on September 2, 1990. It is a set of international standards and measures intended to protect and stimulate the health, safety and security of children in society. This convention is the recent major human rights instrument, is based on a commitment to a solidarity effort on behalf of the children of the world. The CRC, as compared to any other human rights instrument, has been ratified and accepted as a binding multilateral treaty by the largest number of countries in the shortest period of time. This indicates a core reality. In a world full of conflict and violent confrontation, we have found a single issue that can evoke a position sense of agreement.⁸

The 1989 convention is the most important, because it is legally binding and implements the standards outlined in the earlier declarations in international law.⁹ Since its adoption by the UN General Assembly in November 1989, the convention has become the most ratified of all international Human rights treaties accepted by 192 states, all except the US and Somalia, India ratified in 1992.¹⁰

The Child Rights Convention that is the first legally binding International instrument incorporate the human rights relating to political, economic, political, civil, and social rights. In 1989, world leaders decided that children needed a special convention just for them because people under eighteen years often need special care and protection. The leaders also wanted to make sure that the world recognised that children have human rights too.¹¹ The convention sets out these rights in fifty four articles and two optional protocols. It spells out the basic human rights that children everywhere have.

2.1. Rights of the Child under UN Convention

According to the United Nation Convention, some Rights of the Child are as under:¹²

- “A child is every human being under eighteen years.”
- “Every child deprived of his/her liberty shall have the right to prompt access to legal help, as well as the right to challenge the legality of the deprivation of his/her liberty before a court.¹³”
- “The Government shall take all suitable measures to ensure that the child is protected from all forms of discrimination or punishment on the basis of the states, expressed opinions or beliefs of the child’s parents, activities and legal guardians of family members.¹⁴”
- “No child shall be subjected to arbitrary or unlawful interference to his/her privacy and family nor does

unlawful attack on his/her honour and reputation.”

- “The government must protect the child from all forms of sexual exploitation and abuse, it must take national, multilateral and bilateral measures to prevent and control the inducement or coercion of a child to engage in any unlawful sexual activity in the region.”

2.2. Essential Principles

The UNCRC is universally identified as the base for child protection. The convention is guided by three essential principles and they are as follows:

2.2.1. Non-discrimination¹⁵: This Principle lay down that “all rights apply to all children without discrimination whatever their religion, race or abilities, whatever they think or say, whatever type of families they come from. It does not matter where the children live, whatever the language they speak, whatever their parents do, whether they are girls or boys, whatever their culture, whether they have a disability or whether they are poor or rich. No child should be treated unfairly on any basis.¹⁶”

Art. 2 in particular clarifies that “a right of the child to survival and development, protection from exploitation and aggression and the right to participate in matters that concern the child, consist with evolving maturity, must be realized for all children within ratifying countries.” Factors such as the child’s or the parent’s or guardian’s birth, economic class, disability, ethnicity, religion or gender, cannot be a justification for denying these rights or diluting them.

2.2.2. Best Interest of Child: “In all actions concerning Child, the best interest of child shall be a primary consideration whether the actions undertaken by public or private social welfare institutions, administrative authorities court of law or legislative bodies.¹⁷”

2.2.3. Respect for Views of Children

“State Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.¹⁸” Further this principle does not violate parent’s right and responsibility i.e. to express their views on matters affecting their children. Furthermore, the convention makes out the provision that the level of a participation of the child in decisions must be suitable to the child’s level of maturity.

3. Four Sets of Basic Rights

The convention draws response to the 4 types of sets of child’s social, economic, political, civil and cultural rights. These are as under:

3.1. The Right to Survival: It includes the right to life, health, nutrition, the highest attainable standards of health and adequate standards of living. It also includes the right

⁷ General Assembly Resolution 44/25, 20th November, 1989

⁸ R.S Verma, (Ed.), “Human rights : Burning Issues of the World”, Vol. II, (2000) P. 309

⁹ Darren J. O’Byrne, “Human rights : An Introduction”, (2007) P. 375

¹⁰ Supra n 5

¹¹ Supra n 3

¹² The Times of India, New Delhi, 6th November 2008

¹³ Available at www.wcd.nic.in assessed on 18th March, 2015

¹⁴ Ibid.

¹⁵ Article 2, UN Convention on the Right of the Child.

¹⁶ Available at www.scribd.com assessed on 12th March 2016.

¹⁷ Article 3 UN Convention on the rights of the Child.

¹⁸ Article 12 UN Convention on the right of the Child.

to a nationality and name.¹⁹

3.2. The right to protection: It includes freedom from all forms of exploitation, inhuman behaviour, abuse, degrading treatment and neglect including the right to special protection in situations of emergency and argued conflicts.²⁰

3.3. The right to development: It includes the rights such as the right to social security, education, support for early childhood development and care, the right to leisure, recreation and cultural activities.²¹

3.4. The right to participation: It includes respect for the views of the child, freedom of expression, access to appropriate information and freedom of thought, conscience and religion.²²

The convention guarantees these rights for the overall development of the child. The convention aims to ensure overall development whether it may be physical, mental, moral, spiritual and social development of children through guaranteeing the above discussed rights. Member states are obliged to implement the provision of the convention to guarantee these rights to children.

4. Optional Protocols to the Convention on the Rights of the Child

This convention provides the optional protocol on the child prostitution, sale of children and child pornography which come into force on 18th January 2002. Further the optional protocol on the involvement of children in armed conflicts was entered into force on 12th February 2002.²³ The international community recognized that people under 18 years of age often need special care and protection that adults do not and adopts it. For the help in stopping the growing abuse and exploitation of children worldwide, the UN General Assembly adopted these Optional Protocols to the convention to increase the protection of children from involvement in armed conflicts and sexual exploitation in 2000.²⁴

A protocol is optional because of its binding force. It is not automatically binding on states which have already ratified the original treaty. The obligations in the protocol are additional only. It may be more demanding than those in the original convention and so states must independently choose whether or not to be bound by a protocol.

4.1. The Optional Protocol on the Involvement of Children in Armed Conflict: It establishes the minimum age for compulsory recruitment at the age of eighteen years. It requires states to do everything to prevent individuals under the age of eighteen years from taking a direct part in hostilities.

¹⁹Articles 3, 6, 7, 8, 21, 23, 24, 25, 27, 88 and 40 of United Nations Convention on the Rights of the Child

²⁰ Article 9, 21, 22, 23, 24, 25, 32, 34, 37, 38, 39, 40 of UN Convention on the Rights of Child

²¹ Articles 5, 23, 26, 28, 29, 31, 39 of United Nations Convention on the Rights of the Child provides for this right.

²² Article 12, 13, 14, 15, 17, 23, 24, 28 of UN Convention on the Rights of the Child

²³ Annual Human Rights Report, 2002. 12747/02, 14th October, 2002, 2012.

²⁴ Available at www.scribd.com assessed on 13th May, 2015.

4.2. The Optional Protocol on the Child Prostitution, sale of Children and Child Pornography: It draws special attention to the criminalization of these serious violations of children's right. It emphasizes the importance of encouragement of increased public responsiveness and international cooperation in efforts to combat them. The protocol must always be interpreted in the light of the original treaty which must be guided by the principles of non-discrimination, best interest of child and child participation.

5. Committee on the Rights of the Child

The UNCRC was convened in Geneva for its opening session on 3rd September 1991. To monitor and report on the movement of every country which has ratified the convention, the committee is an international body of 10 child rights expert that are elected by the state parties.²⁵ It also monitors implementation of the two optional protocols to the convention and also aids the Governments in bringing their national laws and practices into conformity with the treaty.²⁶ The method adopted for the election of the members of the committee is the method of secret ballot by a list of the persons nominated by the state parties. Each state party may nominate only one person from its own nationals. The member of the committee is elected for a term of 4 years.²⁷

The state parties agree to submit to the committee the reports on the measures which they have adopted on the progress made on the implementation of rights. The states must report in the beginning two years after acceding to the convention and thereafter every five years.²⁸ The committee studies each report and also reviews additional reports which must be submitted by states. The convention on the rights of child does not lay down any procedure for individual complaints from children or their representatives. However, it has merely achieved the universal ratification. The convention provided on international standard against which the behaviour of nations can be measured and improved.²⁹

The CRC has already proved to be an effective framework for international action. The key underlying advance was the recognition of the child as a complete individual. The convention establishes that the child has an identity distinct from those of parents or nurtures and that the community has a duty to protect the identity and to enable the child to express it in matters such as guardianship or custody.³⁰ By agreeing to undertake the obligations of the convention, national governments have committed themselves to protecting and ensuring children's rights. They have agreed to hold themselves accountable for this commitment before

²⁵ Art. 43 of UNCRC provides, "The committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this convention". But the conference of state parties to the convention on Dec. 12, 1995 adopted an amendment to Article 43 increasing the membership of the committee to 18 experts. The amendment was approved by the General Assembly on Dec. 21, 1995 by Resolution 50/155, dated December 31, 1995

²⁶ Dolly Singh (Ed.), "Child Rights and Social Wrongs : An Analysis of Contemporary Reallies", Vol.2, (2001) P. 4

²⁷ Art. 43 (6) UNCRC

²⁸ Art. 44 (1) UNCRC

²⁹ H.O. Aggrawal, "Human rights", (2007) PP. 121-122

³⁰ Ram Mohan, "Encyclopedia of Social Problems in Developing Countries", Vol. 1, (2003) P. 196

the international community.³¹

6. World Summit for Children

The World Declaration, adopted by the World Summit for Children, which met in New York on 30th December, 1990. The objective of the summit is to bring the attention and to promote the commitment towards the goals and strategies to ensure the protection, survival and development of the child. These are the key elements in socio-economic development of all countries and the human society. The Summit adopted the “The World Declaration on the Survival, Protection and Development of Children and the Plan of Action for implementing the World Declaration.”³² While the Declaration is a moral and joint commitment, the plan of Action is a practical guide for national governments, international and non-governmental organizations to make sure the implementation of the Declaration’s specific principles.³³

A Set of goals for children and development in the 1990’s has been formulated in several international forum attended by virtually all governments, relevant UN agencies, and major NGO’s. In Support of these goals and in line with the growing international consensus in favour of greater attention to the human dimension of development in the 1990’s, this plan of Action calls for concerted national action and international cooperation to strive for the achievement, in all countries of the following major goals for overall survival, protection and development of children.³⁴

- Reduction of less than 5 years child mortality rates by 1/3rd or to a level of seventy per one thousand live births, whichever is the greater reduction,
- Reduction of maternal mortality rates,
- Reduction of severe and moderate mal-nutrition the child under 5 years of age,³⁵
- World wide access to the basic education and completion of Primary education by at least 8 percent of Primary school age child,³⁶
- World wide access to safe drinking water and sanitary means of expel disposal,
- To Provide Protection of children in especially difficult situation, particularly in circumstances of armed conflict.

However, children continue to pure a threat to the principles laid down in world summit. For instance, more than one core children under the age of 5 still die each year, Armed conflicts killed more than 20 lakh children in last 10 years and left many other millions psychologically traumatized, disabled and even mutilated, over six crores children work in the worst forms of child labour etc., Although these facts show a gloomy pictures, the achievements emphasize that overall a beneficial foundation has been laid to reach the Summit’s objectives.

A significant step, extending and widening the thrust and horizon of the 1990 world summit on children in the

Beijing Declaration of 1995 which calls for elimination of all forms of discrimination against the girl child and the full implementation at the domestic level of Convention on the contributions towards the child.

7. Beijing Conference

The ‘Fourth World Conference on Women’, held in 1995 in Beijing, commonly called Beijing conference stated that women’s rights are human rights. It considered issues of violence of women in both the public and the private life as human rights issues. The conference also called for the eradication of any conflicts which may arise between the rights of women and the harmful effects of certain traditional or customary practices, cultural prejudices and religious extremism. A draft programme of action was prepared for consideration in Beijing conference which identified 12 critical areas of concern regarding women and girl child issue was one of them. The Conference and the Convention on the Elimination of All forms of Discrimination against Women could not achieve the desired effect in view of the fact that women’s/girl’s human rights are still violated worldwide in different ways and to varying degrees. Violence against girl child remains a global phenomenon against which no country, no society and no community are immune. Discrimination against women exists because it has roots in societal norms and values that do not change as a result of international agreements or even by legislation.

8. United Nations special Summit for children: Building a world Fit for Children (2002)

The special session on children later held in 2002 in New York to review the progress made for children since 1990 World Summit for Children. After deliberation, the Assembly adopted “A World Fit for Children” setting out goals and a specific plan of action to help millions of young people across the globe to receive adequate education, health services and standards of living. The text’s plan of action established new goals for children and set out specific targets in the fields of health, education, protection against abuse, exploitation and violence, as well as the struggle against HIV/AIDS.

9. Conclusion

However, children continue to pure a threat to the principles laid down in world summit. For instance, more than one core children under the age of 5 still die each year, Armed conflicts killed more than 20 lakh children in last 10 years and left many other millions psychologically traumatized, disabled and even mutilated, over six crores children work in the worst forms of child labour etc., Although these facts show a gloomy pictures, the achievements emphasize that overall a beneficial foundation has been laid to reach the Summit’s objectives.

References

1. See preface to Viajy Rattan, Integrated Child Development Services Program Administration, Vol. II, (1997) S. Chand & Company Ltd., New Delhi
2. N.S Sreenivasalu, “Human rights: Many Sides to a Coin”, (2008) P. 45
3. <http://www.unicef.org/crc/index-framework.html> accessed on 21st December 2008
4. J.S Verma, “The New Universe of Human rights”, (2004) P. 18

³¹ Available at www.coremanipur.org assessed on 26th July, 2015.

³² Ram Mohan, “Encyclopedia of Social Problems in Developing Countries”, Vol. 1, (2003) P. 196

³³ Ibid

³⁴ Available at www.childlineindia.org.in assessed on 21st December. 2016.

³⁵ Ibid.

³⁶ Ibid.

5. [Http: // www.scribd.com](http://www.scribd.com) assessed on 21ST May, 2015.
6. [http: //wwwchildineindia.org.in/cr-internationallevel.htm](http://www.childlineindia.org.in/cr-internationallevel.htm). Accessed on 22nd December 2016.
7. General Assembly Resolution 44/25, 20th November, 1989
8. R.S Verma, (Ed.), "Human rights: Burning Issues of the World", Vol. II, (2000) P. 309
9. Darren J. O'Byrne, "Human rights: An Introduction", (2007) P. 375
10. The Times of India, New Delhi, 6th November 2008
11. www.wcd.nic.in assessed on 18th March, 2015
12. Article 2, UN Convention on the Right of the Child.
13. www.scribd.com assessed on 12th March 2016.
14. H.O. Aggrawal, "Human rights", (2007) PP. 121-122
15. Ram Mohan, "Encyclopaedia of Social Problems in Developing Countries", Vol. 1, (2003) P. 196
16. www.coremanipur.org assessed on 26th July, 2015.
17. www.childlineindia.org.in assessed on 21st December. 2016.